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8 **BEFORE THE**
CALIFORNIA BOARD OF OCCUPATIONAL THERAPY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. OT2007-90

12 **KEVIN WESLEY YOSHINO**
17516 Daphne Avenue
13 Torrance, CA 90504

A C C U S A T I O N

14 **Occupational Therapy License No. OT 9052**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Heather Martin (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the California Board of Occupational Therapy, Department of Consumer
21 Affairs.

22 2. On or about October 18, 2006, the California Board of Occupational Therapy (Board)
23 issued Occupational Therapy License Number OT 9052 to Kevin Wesley Yoshino (Respondent).
24 The Occupational Therapy License was in full force and effect at all times relevant to the charges
25 brought herein and will expire on August 31, 2009, unless renewed.

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JURISDICTION

3. This Accusation is brought before the California Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 480 states, in pertinent part:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(3)(A) Done any act that if done by a licentiate of the business and profession in questions, would be grounds for suspension or revocation of license. . . ."

5. Section 492 states as follows:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division."

6. Section 2570.28 states, in part:

"The board may deny or discipline a licensee for any of the following:

(a) Unprofessional conduct, including, but not limited to, the following:

...

(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter or any regulation adopted pursuant to this chapter.

....

(o) Committing any act that would be grounds for denial of a license under Section 480."

1 7. Section 2570.29 states, in pertinent part, as follows:

2 "In addition to other acts constituting unprofessional conduct within the meaning of this
3 chapter, it is unprofessional conduct for a person licensed under this chapter to do any of
4 the following:

5 (a) Obtain or possess in violation of law, or prescribe, or, except as directed by a licensed
6 physician and surgeon, dentist, optometrist, or podiatrist, to administer to himself or herself,
7 or furnish or administer to another, any controlled substance as defined in Division 10
(commencing with Section 11000) of the Health and Safety Code or any dangerous drug or
8 dangerous device as defined in Section 4022. . . ."

8 8. California Code of Regulations, title 16, section 4170, subdivision (e) states:

9 "Occupational Therapy Practitioners shall comply with the Occupational Therapy Practice
10 Act, the California Code of Regulations, and all other related local, state, and federal laws."

11
12 **DANGEROUS DRUG - CONTROLLED SUBSTANCE**

13 9. Cocaine, and any cocaine base, is a narcotic drug according to Health and Safety Code
14 section 11019(e). It is a Schedule I controlled substance, as designated in Health and Safety
15 Code section 11054(f)(1), and a Schedule II controlled substance, as designated in Health and
16 Safety Code section 11055(b)(6). It is categorized as a dangerous drug according to Business and
17 Professions Code section 4022.

18 **COST RECOVERY**

19 10. Section 125.3 provides, in relevant part, that the Board may request the administrative
20 law judge to direct a licensee found to have committed a violation or violations of the licensing
21 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
22 case.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Possession of a Controlled Substance)**

25 11. Respondent is subject to disciplinary action under section 2570.29, subdivision (a) on
26 the grounds that he possess, in violation of law, a controlled substance. The circumstances are
27 that on or about September 19, 2007, during a vehicle stop, Respondent was found, by a Los
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1 Angeles Police officer, to be in possession of rock cocaine. Respondent admitted to purchasing
2 twenty dollars worth of rock cocaine.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Violation of Laws)**

5 12. Respondent is subject to disciplinary action under section 2570.28, subdivisions (c)
6 and (o), and California Code of Regulations, Title 16, section 4170, subdivision (e), in that
7 Respondent violated California law by being in possession of rock cocaine, in violation of Health
8 and Safety Code section 11350(a), as more fully set forth in paragraph 11, above.

9 **PRAYER**

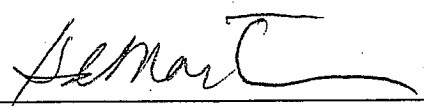
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board issue a decision:

12 1. Revoking or suspending Occupational Therapy License Number OT 9052, issued to
13 Respondent.

14 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
15 enforcement of this case, pursuant to Business and Professions Code section 125.3; and

16 3. Taking such other and further action as deemed necessary and proper.
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19 DATED: August 18, 2009


HEATHER MARTIN
Executive Officer
California Board of Occupational Therapy
Department of Consumer Affairs
State of California
Complainant

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